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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 SOVANY BEVERAGE COMPANY, LLC)
A Nevada Limited Liability Company,)
10 Plaintiff,)
11 v.) CASE NO: 2:21-cv-01414-APG-EJY
12)
13 NEWPORT FLAVORS AND)
FRAGRANCES)
14 d/b/a NEWPORT BOTTLING AND)
CANNING, a California Corporation;)
15 Doe Individuals I through X, and Roe)
Corporations I through X,)
16) STIPULATION REGARDING
17) BRIEFING OF DEFENDANT'S MOTION
18) TO DISMISS [ECF No. 6] AND
Defendant.) DISCOVERY PLAN AND [PROPOSED]
19) ORDER (FOURTH REQUEST AS TO
MOTION TO DISMISS AND FIRST
AS TO DISCOVERY PLAN)
)
)

20 IT IS HEREBY STIPULATED and AGREED by and between Plaintiff Sovany Beverage
21 Company, LLC (“Plaintiff”), and Defendant Newport Flavors and Fragrances, d/b/a Newport
22 Bottling and Canning (“Defendant”), by and through their respective undersigned counsel:
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24 1. As set forth in prior stipulations between the parties [ECF Nos. 9, 13, 15], the parties
25 are still attempting to resolve the matter through counsel, and the parties have
26 conserved resources and have been mindful of judicial economy during that process.
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1 2. A settlement either will be reached within the next two weeks, or a settlement will not
2 occur at this juncture.

3 3. With the forgoing in mind, and to accommodate the schedule of Plaintiff's counsel
4 during the week of October 4 – October 8, 2021, the parties have agreed to a final
5 extension of the briefing schedule on Defendant's pending Motion to Dismiss for Lack
6 of Personal Jurisdiction [ECF No. 6] (the "Motion to Dismiss").

7 4. Specifically, the parties stipulate and agree that Plaintiff shall have until October 20,
8 2021 to file an opposition to the Motion to Dismiss, and Plaintiff shall have until
9 November 3, 2021 to file a reply in support of the Motion to Dismiss.

10 5. Absent exigent circumstances, there shall be no further extensions of the briefing
11 schedule on the Motion to Dismiss.

12 6. In addition, on September 21, 2021, the Court entered a minute order [ECF No. 17]
13 regarding the submission of a proposed discovery plan and scheduling order.

14 7. The parties respectfully submit that with the Motion to Dismiss pending, the
15 submission of a proposed discovery plan and scheduling order would be inefficient and
16 a potential waste of judicial time and resources.

17 a. For reasons that will be addressed in Plaintiff's opposition to the Motion to
18 Dismiss, Plaintiff maintains that said Motion should be denied, and if the
19 Motion is not denied on its face, at a minimum, jurisdictional discovery should
20 be conducted before the Court rules on the Motion to Dismiss. If such discovery
21 is ordered, then any proposed discovery plan and scheduling order will be moot.

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b. For reasons that will be addressed in Defendant's reply in support of the Motion to Dismiss, Defendant maintains there is no basis for conducting jurisdictional discovery and the Motion to Dismiss should be granted. Should the Court grant the Motion to Dismiss, then there will be no discovery, and any proposed discovery plan and scheduling order will be moot.

8. As such, the parties stipulate and agree that any requirement for filing a proposed discovery plan and scheduling order should be stayed until the Court has entered a decision on the Motion to Dismiss.

DATED this 4th day of October 2021.

/s/ Robert Z. DeMarco
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DATED this 4th day of October, 2021.

/s/ Joel Schwarz
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ORDER

Based upon the foregoing stipulation, and with good cause appearing, IT IS THEREFORE
ORDERED:

1. Plaintiff shall file an opposition to the Motion to Dismiss for Lack of Personal Jurisdiction (“the “Motion to Dismiss”) [ECF 6], by October 20, 2021, and Defendant shall file a reply in support of the Motion to Dismiss by November 3, 2021.
2. Until such time as the Court has entered a decision on the Motion to Dismiss, the parties’ obligation to submit a proposed discovery plan and scheduling order is temporarily shall be stayed.

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE

DATED: October 6, 2021

Submitted by:

/s/ Robert Z. DeMarco
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